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Our Case No. 3614/94

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: )  
Vincent Chow and Alan Y. Chow )  
Serial No. 10/690,413 ) Examiner: Kristen Drosch Mullen  
Filing Date: October 21, 2003 ) Group Art Unit No. 3762  
For Multi-Phasic Microphotodetector )  
Retinal Implant with Variable Voltage )  
and Current Capability and Apparatus )  
for Insertion )

**RESPONSE**

Mail Stop Amendment  
Commissioner for Patents  
Alexandria, VA 22313

Dear Sir:

In response to the Office Action mailed January 13, 2005, please enter the following Response.

**REMARKS**

In the Office Action mailed January 13, 2005, claims 1-3, 5-11 and 16 were rejected under 35 U.S.C. §102(e) as being anticipated by Nisch et al. (U.S. Pat. No. 6,298,270; hereinafter "Nisch"). Claims 4, 12-15 and 17-18 were deemed allowable but objected to as being dependent upon rejected base claims. Applicants traverse and respectfully request reconsideration.

**Rejections under 35 U.S.C. §102(e), Nisch**

Claims 1-3, 5-11 and 16 stand rejected under 35 U.S.C. §102(e) as being anticipated by Nisch.

With regard to claims 1 and 7, Applicants respectfully submit that Nisch fails to teach both a first photovoltaic element and a second photovoltaic element, as presently claimed. As understood by those having ordinary skill in the art, a "photovoltaic" element is an element "capable of accepting light energy and converting it into an electrical signal." (Encyclopedia of Electronics, Second Edition, 1990) In contrast, a person having ordinary skill in the art